

in any one else, such equitable interest must, according to this law, be held liable to a lien, and to be taken in execution on a judgment against such defendant. (d) But between these extremes, where the lines shall be drawn, and how the relative interests of the parties shall be adjusted, may be, in some cases, the cause of much perplexity; and that not merely in this court; for, by means of this act of Assembly cases involving and resting upon a mere question of equity may thus consequentially be brought within the jurisdiction of a court of common law. (e)

It will be seen from what has been said, that the lien of a judgment at common law arises altogether from the liability of the freehold to be taken in execution and extended or sold for the satisfaction of such judgment. According to the English law, although a *decree* is equal to a judgment in the administration of the personal assets; yet it gives no such lien upon the *realty* as that arising from a judgment; because a decree acts only *in personam*, not *in rem*; and the remedy upon a decree to affect land is only for a contempt, whereupon the party proceeds to sequestration, which is a mere personal process. (f) But a writ of sequestration binds from the very time of awarding it, and not only from the time of its being laid or of its delivery to the sheriff; and in that respect it gives a lien earlier than a *fieri facias*. (g) But where lands or the profits of lands, which is all one, are directly in demand, as where the lands or their profits were charged with the payment of a legacy to the plaintiff, the title is bound from the time of filing the bill, and every purchaser *pendente lite* comes in at his peril. (h)

The act of Assembly prescribes the order in which the debts of a deceased debtor shall be paid out of his *real* as well as out of his *personal* assets, giving a preference to judgments, and thus recognizing the lien to which they give rise; but it is silent as to decrees. (i) The testamentary system puts judgments and decrees upon the same footing in the administration of the *personal* estate; but does not intimate, that a decree gives rise to any lien upon the *realty* like that attendant upon a judgment at law. (j) There is

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(d) *Jackson v. Willard*, 4 John. Rep. 41.—(e) *Scott v. Scholey*, 8 East. 467; *Archer v. Snapp, Andrews*, 341; *Hopkins v. Stump*, 2 H. & J. 301; *Harding v. Stevenson*, 6 H. & J. 264.—(f) *Powel Mortg.* 547; *Ram. on Assets*, 292.—(g) *Burdett v. Rockley*, 1 Vern. 58; *Bligh v. Darnley*, 2 P. Will. 621; *Forum Rom.* 87.—(h) *Crofts v. Oldfield*, 3 Swan. 278, note.—(i) 1735, ch. 80, s. 7.—(j) 1798, ch. 101, sub ch. 8, s. 17.